

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

GREGORY COLBURN et al.,

Defendants

Case No. 1:19-cr-10080-NMG

DEFENDANTS' PRETRIAL MEMORANDUM

Defendants Gamal Abdelaziz, Marci Palatella, and John Wilson submit this memorandum to raise with the Court issues to be addressed at the final pretrial conference on August 18, 2021.

1. **Document admissibility issues.** Defendants have made multiple attempts to reach agreement with the Government regarding document admissibility issues, including proposing a stipulation to the government that certain broad categories of documents be deemed as authentic and/or business records. Absent a stipulation along these lines, Defendants believe that document admissibility issues, including the need to call a parade of record-keeper witnesses, will unnecessarily prolong the trial.

2. **Jury selection.** Defendants respectfully request the Court provide the parties a list of the venire several days in advance of the jury selection in order to streamline the process and ensure a representative demographic sample in light of the challenges posed by COVID-19. Defendants also would like to confirm at the pretrial conference the specific procedures for jury selection, including the number of peremptory strikes each party will have.

3. **Length of Openings.** Defendants propose 60 minutes for the government's opening, 45 minutes for Mr. Abdelaziz's opening, and 50 minutes for each of Ms. Palatella's and Mr. Wilson's openings. Defendants request that the Court allocate any enforceable time limit individually (i.e., 45, 50, 50), and not cumulatively.

4. **Witness Order.** Defendants propose a protocol whereby the parties would provide each other the order of their witnesses on a particular day by at least 4 pm two business days in advance.

5. **Summary Charts.** Defendants propose a protocol whereby the parties would provide each other any summary chart by at least 2 pm two business days before they plan to use such chart.

6. **Logistics.** Defendants have been communicating with the Court's clerks on logistics issues relating to the trial. Defendants would like to address the following questions to the extent they are still pending at the time of the pretrial conference:

- which courtroom the trial will take place in;
- other than the attorney room, whether Defendants could access additional rooms that can be locked overnight and where attorneys can store exhibits, work, and meet during the trial;
- how to obtain wifi access for printers and defense team communications, if there is a limit on access to the primary courtroom;
- whether paralegals and other non-lawyers on the trial teams may bring their cell phones into the courthouse during the trial. Permission to have this access will be of great importance to the defense team if there are limits on access to the primary courtroom;

- what the restrictions will be on the number of people in the primary courtroom, particularly with respect to attorneys, paralegals, family members, and the public;
 - whether there will be an overflow room, and how the trial will be accessible to those not in the primary courtroom; and
- what other COVID-related precautions will be in place during the trial, including mask requirements, distancing, and any other precautions.

Respectfully submitted,

/s/ Brian T. Kelly

Brian T. Kelly (BBO No. 549566)
Joshua C. Sharp (BBO No. 681439)
Lauren M. Maynard (BBO No. 698742)
NIXON PEABODY LLP
53 State Street
Boston, MA 02109
617-345-1000
bkelly@nixonpeabody.com
jsharp@nixonpeabody.com
lmaynard@nixonpeabody.com

Counsel for Gamal Abdelaziz

/s/ Michael Kendall

Michael Kendall (BBO #544866)
Lauren M. Papenhausen (BBO #655527)
WHITE & CASE LLP
75 State Street
Boston, MA 02109-1814
(617) 979-9310
michael.kendall@whitecase.com
lauren.papenhausen@whitecase.com

Andrew E. Tomback (*pro hac vice*)
MCLAUGHLIN & STERN
260 Madison Avenue
New York, NY 10016
(212) 448-1100
atomback@mclaughlinstern.com

Counsel for John Wilson

/s/ Michael K. Loucks

Michael K. Loucks (BBO #305520)
SKADDEN, ARPS, SLATE, MEAGHER &
FLOM LLP
500 Boylston Street
Boston, MA 02116
(617) 573-4800
michael.loucks@skadden.com

Jack P. DiCanio (*pro hac vice*)
SKADDEN, ARPS, SLATE, MEAGHER &
FLOM LLP
525 University Avenue
Palo Alto, CA 94301
(650) 470-4500
jack.dicanio@skadden.com

Counsel for Marci Palatella

DATED: August 17, 2021

CERTIFICATE OF SERVICE

I hereby certify that the above document is being filed on the date appearing in the header through the ECF system, which will send true copies to the attorney of record.

/s/ Michael Kendall
Michael Kendall